

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANDRE NICHOLS and DANIEL MORAES,

Plaintiffs,

- against -

MICHAEL T. MAHONEY, EMC CONTRACTING
INC., EMC NEW YORK CONTRACTING, and
EMC of NEW YORK, INC.

Defendants.

08-CV-3306 (CM)(DCF)

AFFIRMATION OF GEORGE L. SANTANGELO, ESQ.
IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS

GEORGE L. SANTANGELO declares under penalty of perjury:

1. I am a member of the bar of this Court, and I am counsel to defendants Michael T. Mahoney, EMC Contracting, Inc., EMC New York Contracting and EMC of New York, Inc. I submit this affirmation in support of Defendants' motions to pursuant to Fed. R. Civ. Pro. 12(b)(1) and 12(b)(6) dismissing the complaint for failure to state a cause of action and absence of subject matter jurisdiction and pursuant to the Court's inherent and equitable powers for such other and further relief as this Court may deem just and proper.

2. The motions to dismiss are directed to the face of the pleadings on file with the Court, specifically the complaint and the RICO Case Statement dated May 30, 2008. The grounds for dismissal are set forth in the accompanying Memorandum of Law.

WHEREFORE, your affirrant respectfully requests that Defendants' motion to dismiss and for such other and further relief as this Court may deem just and proper be granted in all respects.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: New York, New York
July 2, 2008



GEORGE L. SANTANGELO